A S/21-55
2700

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

21
LDJ
12-11-03

		§		
Applicant:	Uri Elzur	§	Group Art Unit:	2155
		§		
Serial No.:	09/364,085	§		
		§	Examiner:	Thu Ha T. Nguyen
Filed:	July 30, 1999	§		
		§		
Title:	Associating A Packet With A Flow	§	Atty. Dkt. No.:	ITL.0149US (P6585)
		§		

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RECEIVED

DEC 0 5 2003

Technology Center 2100

REPLY BRIEF

Dear Sir:

The following reply is submitted to the Examiner's Answer.

I.   CLAIMS APPEALED

The appealed claims are claims 1-8 grouped together; and claims 14-19, grouped

together.

II.   REPLY TO EXAMINER'S ARGUMENTS

A *prima facie* case of obviousness requires a showing that one skilled in the art,

without knowledge of the claimed invention, would have combined references to derive the

claimed invention. In other words, to establish a *prima facie* case of obviousness in the

instant application, the Examiner must show where the prior art contains the alleged
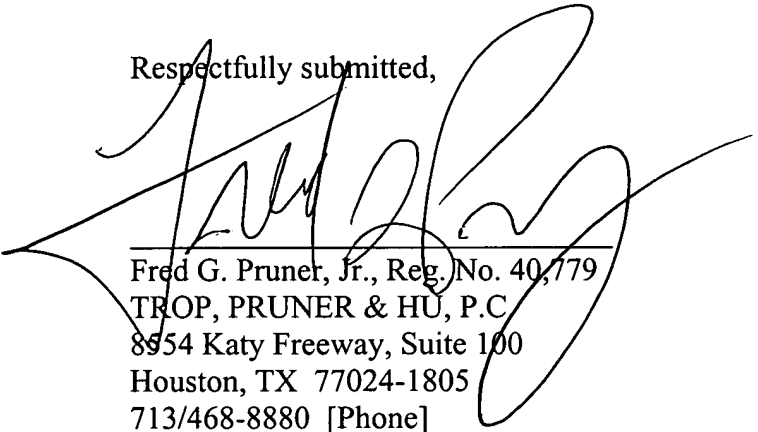
suggestion or motivation to modify Jackowski in view of Law so that Jackowski's tables are stored in the memory of a peripheral.

Instead of showing where the prior art contains this alleged suggestion or motivation, the Examiner, with knowledge of the claimed invention, modifies Jackowski in view of Law based on the untenable conclusion that such a modification would "enhance the performance of the network communication system" of Jackowski." Examiner's Answer, 8. However, a mere unsupported conclusion that such a suggestion or motivation exists is not, by itself, sufficient to establish a *prima facie* case of obviousness. The Examiner refers to *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971), a case that the Examiner contends stands for the proposition that a § 103 combination is proper, "so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure." Examiner's Answer, 8. It appears from this statement that the Examiner is ignoring the requirement to show where the prior art contains the alleged suggestion or motivation and is instead improperly relying on the alleged general level of skill in the art. *Al-Site Corp. v. VSI Int'l, Inc.*, 50 USPQ2d. 1161, 1171 (Fed. Cir. 1999) (holding " rarely, however, will the skill in the art component operate to supply missing knowledge or prior art to reach an obviousness judgment"). However, a *prima facie* case of obviousness requires more than just a piecewise combination of elements from multiple references based on the knowledge gleaned only from Applicant's disclosure and an unsupported allegation of a suggestion or motivation for the combination.

Thus, the § 103 rejections of claims 1-8 and 14-19 are improper and should be reversed. The Commissioner is authorized to charge any fees or credit any overpayment to Deposit Account No. 20-1504 (ITL.0149US).

Respectfully submitted,

Date: December 2, 2003

Fred G. Pruner, Jr., Reg. No. 40,779
TROP, PRUNER & HU, P.C
8954 Katy Freeway, Suite 100
Houston, TX 77024-1805
713/468-8880 [Phone]
713/468-8883 [Facsimile]

APPENDIX OF CLAIMS

The claims on appeal are:

1.   A method for use with a computer system, comprising:

storing a table in a memory of a peripheral, the table including entries identifying

different packet flows;

receiving a packet; and

using the table to associate the packet with one of the packet flows.

2.   The method of claim 1, wherein the packet indicates a header and the act of using

the table comprises:

parsing the packet to identify at least one characteristic of the packet; and

comparing said at least one characteristic to the entries.

3.   The method of claim 1, wherein said at least one characteristic comprises:

a port number being associated with an application.

4.   The method of claim 1, wherein said at least one characteristic comprises:

a security attribute.

5.   The method of claim 1, further comprising:

based on the association, selectively using hardware to process the packet.

6.   The method of claim 1, further comprising:

based on the association, selectively executing software to process the packet.

7.   The method of claim 1, wherein the peripheral comprises:

a network controller.

8.   The method of claim 1, further comprising:

storing the packet in another memory of the peripheral.

14.   A computer system comprising:

a system memory;

a processor; and

a peripheral comprising:

a peripheral memory adapted to store a table including entries identifying

different packet flows;

a first interface adapted to receive a packet;

a second interface adapted to communicate with the system memory; and

a circuit adapted to:

use the table to associate the packet with one of the packet flows, and

based on the association, interact with the second interface to selectively

transfer a portion of the packet to the system memory for processing by the processor.

15.   The computer system of claim 14, wherein the peripheral comprises:

a network controller.

16.   The computer system of claim 14, wherein the packet indicates a header and the

circuit is further adapted to:

parse the packet to identify flow characteristics of the packet; and

compare the characteristics to the entries to associate the packet with one of the packet

flows.

17. The computer system of claim 14, wherein the characteristics comprise:

a port number.

18. The computer system of claim 14, wherein the characteristic comprise:

a security attribute.

19. The computer system of claim 14, further comprising:

another memory coupled to the first interface and adapted to store the packet.